

REMARKS/ARGUMENTS

Claims 1-8 and 10-23 are pending in the application, as claim 9 has been canceled without prejudice. In the Office Action, claims 1-9 and 12-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,978,123 to Fuhrmann, et al. (Fuhrmann). In addition, claims 10 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fuhrmann.

Independent claim 1 has been amended to clarify that the outer surface includes a plurality of through openings for receipt of keys of a keypad for the device projecting therethrough, a limitation originally contained in dependent claim 9. Independent claim 13 has been similarly amended. Also, independent claim 19 has been amended to clarify that the external surface includes the window opening for the display screen. Support for this amendment can be found in FIGs. 1 and 3 and in paragraph 0030.

As presently claimed, the top or side of the communication device is substantially perpendicular to the outer or external surface and the outer or external surface includes a plurality of openings for the receipt of keypad keys or includes a window opening for the display screen. The only audio path out of which audio may exit in the Fuhrmann model is through a loudspeaker covered by a grill (16) (see col. 3, line 66 to col. 4, line 2). This grill (16) is clearly located on the same surface (external wall element (14)) on which the key openings and screen openings of the Fuhrmann device are positioned. Accordingly, the device described in Fuhrmann does not show a sound pressure pathway that exits a top or side of the device in which the top or side of the device is perpendicular to the external wall element (14).

In view of the above, Applicants submit that the above claims are now patentable over the prior art. Reconsideration and withdrawal of the rejection of the claims is respectfully requested. Passing of this case is now believed to be in order, and a Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge any necessary fee, or credit any overpayment, to Motorola, Inc. Deposit Account No. 50-2117.

Respectfully submitted,

Date: August 30, 2007

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